



January 30, 2004

HOUSE BILL No. 1059

DIGEST OF HB 1059 (Updated January 27, 2004 1:42 pm - DI 75)

Citations Affected: IC 3-6.

Synopsis: Indiana election commission membership. Provides for a fifth member of the Indiana election commission who acts as the commission's chair. Provides that the chair is a nonvoting member of the commission unless the voting members of the commission are evenly divided on a question before the commission.

Effective: Upon passage.

Stilwell

January 13, 2004, read first time and referred to Committee on Elections and Apportionment.
January 29, 2004, amended, reported — Do Pass.

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HB 1059—LS 6699/DI 75+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1059

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-6-4.1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The
3 commission consists of **the following members**:

4 **(1) The commission's chair appointed by the governor as**
5 **provided in section 6 of this chapter.**

6 **(2) Four (4) other individuals appointed by the governor as**
7 **provided in section 4 of this chapter.**

8 (b) Each member of the commission must be a registered voter.

9 (c) Each member of the commission **appointed under subsection**
10 **(a)(2)** must be a member of a major political party of the state. Not
11 more than two (2) members of the commission **appointed under**
12 **subsection (a)(2)** may be a member of the same political party.

13 SECTION 2. IC 3-6-4.1-4 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **This section**
15 **applies only to a commission member described in section 2(a)(2)**
16 **of this chapter.**

17 **(b)** Before May 1 of a year that the term of a member of the

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commission expires, the state chairman of the major political party of the state represented by that member may nominate, in writing, two (2) individuals of the state chairman's own political party to succeed the member whose term will expire.

~~(b)~~ (c) The state chairman of a political party may nominate the individual whose term will expire that year to serve a new term.

~~(c)~~ (d) If the state chairman makes the nominations before May 1, the governor shall appoint one (1) of the nominees to the commission.

~~(d)~~ (e) If the state chairman fails to make the nominations before May 1, the governor shall, within another ten (10) days, appoint a member of the same political party as the state chairman. The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment.

~~(e)~~ (f) If the state chairman disapproves the selection within the seven (7) day period under subsection ~~(d)~~, (e), the governor shall make another appointment under subsection ~~(d)~~ (e) that is also subject to the disapproval of the state chairman under subsection ~~(d)~~, (e).

~~(f)~~ (g) If the state chairman does not disapprove an appointment under subsection ~~(d)~~ (e) within the seven (7) day period, the individual appointed by the governor is a member of the commission.

SECTION 3. IC 3-6-4.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **This section applies only to a commission member described in section 2(a)(2) of this chapter.**

(b) If a member of the commission resigns, dies, or becomes unable to serve on the commission, the governor shall notify the state chairman of the major political party of the state represented by the member.

~~(b)~~ (c) The state chairman may nominate in writing, within ten (10) days after notice of the vacancy, two (2) individuals of the state chairman's own political party to succeed the member. If the state chairman makes the nominations within ten (10) days, the governor shall appoint one (1) of the nominees to the commission.

~~(c)~~ (d) If the state chairman fails to make the nominations within ten (10) days, the governor shall, within another ten (10) days, appoint a member of the same political party as the state chairman. The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment.

~~(d)~~ (e) If the state chairman disapproves the selection within the seven (7) day period under subsection ~~(c)~~, (d), the governor shall make

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another appointment under subsection ~~(c)~~ **(d)** that is also subject to the disapproval of the state chairman under subsection ~~(c)~~ **(d)**.

~~(c)~~ **(f)** If the state chairman does not disapprove an appointment under subsection ~~(c)~~ **(d)** within the seven (7) day period, the individual appointed by the governor is a member of the commission.

SECTION 4. IC 3-6-4.1-6, AS AMENDED BY P.L.122-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The governor shall appoint ~~one (1) of the members of the commission~~ **an individual nominated by Common Cause of Indiana** to be the ~~commission's chair~~ **commission's chair**, and ~~one (1) of the members of the commission to be the vice chair of the commission~~. The chair of the commission must be a member of the same political party as the individual who is the secretary of state. The vice chair and the chair may not be affiliated with the same political party.

(b) The individuals appointed as chair and vice chair serve in their respective positions until each individual's term as a member of the commission expires.

(b) If the commission's chair resigns, dies, or becomes unable to serve on the commission, the governor shall notify **Common Cause of Indiana**. The governor shall appoint the individual nominated by **Common Cause of Indiana** to fill the vacancy for the remainder of the unexpired term of the chair.

(c) Except as provided in section 7 of this chapter, the chair is a nonvoting member of the commission.

SECTION 5. IC 3-6-4.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Three (3) **voting** members of the commission constitute a quorum.

(b) Except as otherwise provided in this title, the affirmative vote of at least three (3) **voting** members of the commission is necessary for the commission to take official action other than to meet to take testimony.

(c) If commission members are evenly divided on any matter before the commission, the chair shall cast the deciding vote.

(d) Whenever this title requires the unanimous vote of the entire membership of the commission to take action on a matter before the commission, the commission's chair may not vote on the matter.

SECTION 6. IC 3-6-4.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **This section applies only to a commission member described in section 2(a)(2) of this chapter.**

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(b) A member of the commission may designate another individual to serve as a proxy of record in the member's place as a member of the commission by filing a written instrument designating the proxy of record with the election division. The proxy of record has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the proxy of record at any time. The authority of the proxy of record may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument designating the proxy.

~~(b)~~ (c) If both the member and the member's proxy of record are unavailable, the member may designate another individual in writing to serve as an alternate proxy in the member's place as a member of the commission. This designation must be filed with the election division before taking effect. The alternate proxy has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the alternate proxy at any time. The authority of the alternate proxy may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument designating the proxy.

SECTION 7. IC 3-6-4.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If the chair for any reason fails to call a meeting of the commission, then

~~(1) the vice chair, with the written approval of the remaining two~~
~~(2) commission members, may convene a meeting of the~~
~~commission; and~~

~~(2) the~~ any three (3) members of the commission may meet to execute the powers and perform the duties of the commission.

SECTION 8. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1059, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 9, begin a new paragraph and insert:

"SECTION 1. IC 3-6-4.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission consists of **the following members:**

(1) The commission's chair appointed by the governor as provided in section 6 of this chapter.

(2) Four (4) other individuals appointed by the governor as provided in section 4 of this chapter.

(b) Each member of the commission must be a registered voter.

(c) Each member of the commission **appointed under subsection (a)(2)** must be a member of a major political party of the state. Not more than two (2) members of the commission **appointed under subsection (a)(2)** may be a member of the same political party.

SECTION 2. IC 3-6-4.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **This section applies only to a commission member described in section 2(a)(2) of this chapter.**

(b) Before May 1 of a year that the term of a member of the commission expires, the state chairman of the major political party of the state represented by that member may nominate, in writing, two (2) individuals of the state chairman's own political party to succeed the member whose term will expire.

~~(b)~~ **(c)** The state chairman of a political party may nominate the individual whose term will expire that year to serve a new term.

~~(c)~~ **(d)** If the state chairman makes the nominations before May 1, the governor shall appoint one (1) of the nominees to the commission.

~~(d)~~ **(e)** If the state chairman fails to make the nominations before May 1, the governor shall, within another ten (10) days, appoint a member of the same political party as the state chairman. The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment.

~~(e)~~ **(f)** If the state chairman disapproves the selection within the seven (7) day period under subsection ~~(d)~~, **(e)**, the governor shall make another appointment under subsection ~~(d)~~ **(e)** that is also subject to the disapproval of the state chairman under subsection ~~(d)~~, **(e)**.

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~~(f)~~ (g) If the state chairman does not disapprove an appointment under subsection ~~(d)~~ (e) within the seven (7) day period, the individual appointed by the governor is a member of the commission.

SECTION 3. IC 3-6-4.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **This section applies only to a commission member described in section 2(a)(2) of this chapter.**

(b) If a member of the commission resigns, dies, or becomes unable to serve on the commission, the governor shall notify the state chairman of the major political party of the state represented by the member.

~~(b)~~ (c) The state chairman may nominate in writing, within ten (10) days after notice of the vacancy, two (2) individuals of the state chairman's own political party to succeed the member. If the state chairman makes the nominations within ten (10) days, the governor shall appoint one (1) of the nominees to the commission.

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~~(d)~~ (e) If the state chairman disapproves the selection within the seven (7) day period under subsection ~~(c)~~ (d), the governor shall make another appointment under subsection ~~(c)~~ (d) that is also subject to the disapproval of the state chairman under subsection ~~(c)~~ (d).

~~(e)~~ (f) If the state chairman does not disapprove an appointment under subsection ~~(c)~~ (d) within the seven (7) day period, the individual appointed by the governor is a member of the commission.

SECTION 4. IC 3-6-4.1-6, AS AMENDED BY P.L.122-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The governor shall appoint ~~one (1) of the members of the commission~~ **an individual nominated by Common Cause of Indiana** to be the **commission's** chair. ~~and one (1) of the members of the commission to be the vice chair of the commission. The chair of the commission must be a member of the same political party as the individual who is the secretary of state. The vice chair and the chair may not be affiliated with the same political party.~~

(b) The individuals appointed as chair and vice chair serve in their respective positions until each individual's term as a member of the commission expires.

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(b) If the commission's chair resigns, dies, or becomes unable to serve on the commission, the governor shall notify Common Cause of Indiana. The governor shall appoint the individual nominated by Common Cause of Indiana to fill the vacancy for the remainder of the unexpired term of the chair.

(c) Except as provided in section 7 of this chapter, the chair is a nonvoting member of the commission.

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~~(b)~~ (c) If both the member and the member's proxy of record are unavailable, the member may designate another individual in writing to serve as an alternate proxy in the member's place as a member of the commission. This designation must be filed with the election division before taking effect. The alternate proxy has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the alternate proxy at any time. The authority of the alternate proxy may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument

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designating the proxy.

SECTION 7. IC 3-6-4.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If the chair for any reason fails to call a meeting of the commission, then

~~(1) the vice chair, with the written approval of the remaining two~~
~~(2) commission members, may convene a meeting of the~~
~~commission; and~~

~~(2) the~~ any three (3) members of the commission may meet to execute the powers and perform the duties of the commission.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1059 as introduced.)

MAHERN, Chair

Committee Vote: yeas 7, nays 5.

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